

CALIFORNIA JOINS STATES BANNING FLAME RETARDANTS; SAN FRANCISCO BAN TO TAKE EFFECT IN 2019

Nov 16, 2018

California Governor Jerry Brown has signed into law a ban on flame retardants in certain household products. Starting January 1, 2020, it will be prohibited to sell or distribute children's products, mattresses, and upholstered furniture that contain flame retardants in concentrations above 1,000 parts per million (ppm) in the state of California.

In addition to banning the sale of products containing flame retardants, the law requires the International Sleep Products Association to survey mattress producers every three years to determine what materials are being used to meet flammability standards.

The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation is authorized to enforce the new law and adopt implementing rules and regulations.

In passing the bill, the Legislature cited evidence that flame retardants do little to increase fire safety, and expressed concerns about the link between flame retardants and various health problems, such as developmental problems in children and cancer.

California is one of a number of states that have banned flame retardants or specific chemicals commonly used in flame retardants.

San Francisco's Flame Retardant Ban to Take Effect

On January 1, 2019, San Francisco's similar ban on sale of upholstered furniture and juvenile products containing flame retardants goes into effect. Beginning next year, it will be prohibited to sell upholstered furniture, reupholstered furniture, or juvenile products which have been made with, or contain a flame retardant chemical at a level above 1,000 parts per million. The same ban goes into effect on July 1, 2019 for similar products that have electrical or electronic components.

In addition to banning the sale of products with added flame retardants, the San Francisco ordinance includes labeling requirements for all upholstered furniture and children's products sold in the city. Such products must be affixed with labels that state that the item does not contain the

flame retardants. As seen in sample label below, the labels required by San Francisco's ordinance are the same as those currently required under California's SB 1019, but the label must be marked to indicate that the upholstery materials contain NO added flame retardant chemicals.

NOTICE

THIS ARTICLE MEETS THE
FLAMMABILITY REQUIREMENTS
OF CALIFORNIA BUREAU OF
ELECTRONIC AND APPLIANCE
REPAIR, HOME FURNISHINGS
AND THERMAL INSULATION
TECHNICAL BULLETIN 117-2013.
CARE SHOULD BE EXERCISED
NEAR OPEN FLAME OR WITH
BURNING CIGARETTES.

The upholstery materials in this product:

☐ contain added flame retardant
chemicals

☒ contain NO added flame retardant
chemicals

The State of California has updated the
flammability standard and determined that
the fire safety requirements for this product

can be met without adding flame retardant chemicals. The State has identified many flame retardant chemicals as being known to, or strongly suspected of, adversely impacting human health or development.

The San Francisco ordinance can be enforced by the San Francisco Director of the Department of the Environment, or by the City Attorney, or a tax exempt organization with a primary mission of protecting human health and/or the environment. Penalties for violation of the ordinance may not exceed \$1,000 per day per violation, with each day constituting a separate violation, and each product for sale also constituting a separate violation. In determining the appropriate penalty, the Director or the court will consider “the extent of harm caused by the violation, the nature and persistence of the violation, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the violator.”

RELATED PRACTICE AREAS

- Retail & Consumer Products

MEET THE TEAM



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